

PT 01-12

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**WAY OF TRUTH
BAPTIST CHURCH,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 00-PT-0025
(98-16-1199)
P.I.N: 19-24-115-037**

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Mr. Christopher Markey of Michael W. Coffeld & Associates on behalf of the Way of Truth Baptist Church (hereinafter the “applicant”).

SYNOPSIS: This matter presents the limited issue of whether real estate identified by Cook County Parcel Index Number 09-20-206-005 (hereinafter the “subject property”) was “used exclusively for religious purposes,” as required by Section 15-40 of the Property Tax Code (35 **ILCS** 200/1-1, *et seq.*) during the 1998 assessment year. The underlying controversy arises as follows:

Applicant filed a Real Estate Tax Exemption Complaint with the with the Cook County Board of Review (hereinafter the “Board”) on January 15, 1999. The Board reviewed applicant’s complaint and recommended to the Illinois Department of Revenue (hereinafter the “Department”) that the requested exemption be denied. On March 9, 2000, the Department issued a determination finding that subject property was not in exempt use.

Applicant filed an appeal as to this denial and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that the Department's determination in this matter be reversed.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein are established by Dept Ex. Nos. 1, 2, 4.
2. The Department's position in this case is that the subject property is not in exempt use. Dept. Ex. No. 4.
3. Applicant, a Baptist church, obtained ownership of the subject property by means of a trustee's deed dated May 9, 1997. Applicant Ex. Nos. 1, 3.
4. The subject property is located directly north of applicant's main church facility¹ and improved with a 2 story bungalow-type building. Dept. Ex. No. 2; Tr. pp. 15-16.
5. Applicant's church facility was exempted from real estate taxation pursuant to the Department's determination in Docket No. 91-16-759. That exemption remained in full force and effect throughout the 1998 assessment year. Applicant Ex. No. 2; Administrative Notice.
6. Applicant purchased the subject property because its governing body determined that the main church facility did not contain enough space to accommodate all of its activities. Tr. p. 14.
7. Applicant used the subject property for various activities, including midweek services, Bible studies, prayer meetings, and youth group activities throughout 1998. Tr. pp. 20-25.

1. The address of the subject property is 6450 South California, Chicago, IL 60629; that of applicant's church is 6456 South California, Chicago, IL 60629. Dept. Ex. No. 2; Tr. p. 14.

8. The subject property was not used as housing for applicant's pastor, Charles Lee, or any other individual during 1998. Nor did Tr. 38-39.

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 1998 real estate taxes under Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.* Accordingly, under the reasoning given below, the determination by the Department that said property does not qualify for such exemption under Section 15-40 should be reversed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq.* (hereinafter the "Code"), wherein the following are exempted from real estate taxation:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise use with a view to a profit, is exempt, including all such property owned by churches or religious institutions or denominations and use in conjunction therewith as housing facilities provided for ministers ... performing the duties of the vocation as ministers at such churches or religious institutions or for such religious denominations... [.]

35 **ILCS** 200/15-40.

Statutes conferring property tax exemptions are to be strictly construed so that all factual and legal inferences favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Consequently, any doubts or debatable questions as to whether property falls within a given statutory exemption provision must be resolved in favor of taxation. *Id.*

In this case, the relevant statute requires that the property in question be “used exclusively for religious purposes.” 35 ILCS 200/15-40. The word “exclusively” when used in Section 200/15-40 and other property tax exemption statutes means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993). As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

It is well established that adjacent or satellite facilities, such as the subject property, can be exempted if applicant’s use thereof is “reasonably necessary” to facilitate another specifically identifiable exempt use. Evangelical Hospitals Corporation v. Department of Revenue, 233 Ill. App.3d 225 (2nd Dist. 1991). Applicant purchased this particular subject property in order to serve the changing space needs of its tax-exempt main church facility. Hence, the prayer services, Bible studies and other activities that applicant actually conducted at the subject property during 1998 were

“reasonably necessary” to serve such needs. Hence, the subject property was in exempt use during 1998. Therefore, the Department’s determination to the contrary, which appears to have been based on a lack of information that applicant cured at hearing, should be reversed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that the real estate identified by Cook County Parcel Index Number 19-24-115-037 be exempt from 1998 real estate taxes under Section 15-40 of the Property Tax Code.

March 9, 2001

Date

Alan I. Marcus
Administrative Law Judge